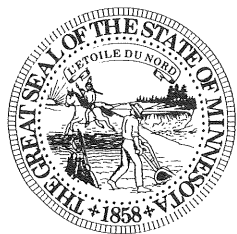


DEC 27 1995

STATE OF MINNESOTA

Department of
Administration



Our mission:
To improve the quality
and productivity
of Minnesota
government.

December 21, 1995

Legislative Commission to Review Administrative Rules
55 State Office Building
100 Constitution Avenue
St. Paul, MN 55155

Re: In the Matter of the Proposed Rules of the State Department of
Administration relating to Amendments to Chapters 1300, 1305, 1315,
1325, 1360, and 1361 of the Minnesota State Building Code

The Minnesota Department of Administration Building Codes and Standards
Division intends to adopt rules relating to the Minnesota State Building Code.
We are publishing notice of intent in the December 26, 1995 State Register.

As required by Minnesota Statutes, sections 14.131 and 14.23, the department has
prepared a statement of need and reasonableness which is now available to the
public. Also as required, a copy of this statement is enclosed with this letter. We
are also enclosing the dual notice of intent to adopt rules and a copy of the
proposed rules.

Sincerely,
BUILDING CODES & STANDARDS

A handwritten signature in cursive script that reads "Peggi White".

Peggi White
Rules Coordinator

enclosures

**Building Codes and Standards Division, Facilities Management Bureau, 408 Metro Square Building,
Seventh and Robert Streets, St. Paul, MN 55101; Voice: 612 296-4639; Fax: 612 297-1973
TTY/TDD: Twin Cities 612 297-5353 or Greater Minnesota 800 627-3529 and ask for voice number**

STATE OF MINNESOTA

DEPARTMENT OF ADMINISTRATION

BUILDING CODES AND STANDARDS DIVISION

In the Matter of the Proposed
Adoption of Amendments to
Chapters 1300, 1305, 1310, 1315
and 1325 of the Minnesota
State Building Code

STATEMENT OF NEED
AND REASONABLENESS

I. Introduction

The Commissioner of the Minnesota Department of Administration proposed to adopt amendments to chapters of the Minnesota State Building Code entitled 1300, Code Administration; 1305, Amendments to the Uniform Building Code; 1310, Building Security; 1315, Electrical Code; 1325, Solar Energy Systems.

The present Minnesota State Building Code Rules is the 1995 printing effective March 20, 1995. The proposed amendments constitute additions, deletions and repealers to various parts and subparts of chapters 1300, 1305, 1310, 1315, and 1325 of the Minnesota State Building Code.

The department began the present rule notification process on September 18, 1995 publishing notices in the State Register (20 S.R. 500) and (20 S.R. 501) soliciting opinions and information from the public on the rules regarding the Minnesota State Building Code.

II. Statement of Agency's Statutory Authority

The commissioner's authority to adopt the rule amendments is set forth in Minnesota Statute 16B.61 subdivision 1, which states:

Subdivision 1. Adoption of code. Subject to sections 16B.59 to 16B.75, the commissioner shall by rule establish a code of standards for the construction, reconstruction, alteration, and repair of state-owned buildings, governing matters of structural materials, design and construction, fire protection, sanitation, and safety. The code must conform insofar as practicable to model building codes generally accepted and in use throughout the United States. In the preparation of the code, consideration must be given to the existing statewide specialty codes presently in use in the state. Model codes with necessary modifications and statewide specialty codes may be adopted by

reference. The code must be based on the application of scientific principles, approved tests, and professional judgement. To the extent possible, the code must be adopted in terms of desired results instated of the means of achieving those results, avoiding wherever possible the incorporation of particular methods or materials. To that end, the code must encourage the use of new methods and materials. Except as otherwise provided in sections 16B.59 to 16B.73, the commissioner shall administer and enforce the provisions of those sections.

III. Statement of Need and Reasonableness

It is necessary to amend the Minnesota State Building Code in order to remain in keeping with the legislative intent of Minnesota Statute 16B.59 to,

... amend a state code of building construction which will provide basic and uniform performance standards, establish reasonable safeguards for health, safety, welfare, comfort, and security of the residents of this state and provide for the use of modern methods, devices, materials, and techniques which will in part tend to lower construction costs.

These proposed changes in the rule are reasonable because they align issues in the building code that provide for the safe and efficient design and use of buildings being constructed and remodeled in Minnesota.

Minnesota Statutes Chapter 14 requires the agency to make an affirmative presentation of facts establishing the reasonableness of the proposed rules. This means that the agency must set forth the reasons for its proposal, and the reasons must not be arbitrary or capricious. However, to the extent that need and reasonableness are separate, need has come to mean that a problem exists which requires administrative attention, and reasonableness means that the solution proposed by the department is appropriate. The need and reasonableness of each rule is discussed in Part IV.

IV. Need and Reasonableness of Individual Rules

A. Minnesota State Building Code, Chapter 1300

1. 1300.2400 Definitions, Subpart 6. Code

G. 1310, Building Security. New Minnesota Statute 14.05 subd. 5 requires that by December 1 of each year, agencies must identify any of their rules that are obsolete and should be repealed. As written, the rules in chapter 1310 are very restrictive as they relate to the security of dwelling units and guest rooms of R-1 and R-3 occupancies. Specifically,

the installation and testing provisions are impractical to comply with and enforce. Because of this, few municipalities have ever incorporated this optional chapter into their building code. The division believes this chapter is obsolete, and therefore, should be repealed.

New item for 1361, Industrialized/Modular Buildings. Separate rulemaking is currently in process that will create a new chapter 1361 for the regulation of Industrialized/Modular Buildings. The need and reasonableness for this chapter is available to anyone by contacting this division.

2. 1300.2900 Optional Administration

The references in subpart 2, item c are being changed from 1335.0300 - 1335.3100 to 1335.0600 - 1335.1200. This is necessary because the current references are incorrect. The proposed modification is reasonable because it correctly states the optional appendix sections of Minnesota Rule Chapter 1335.

3. 1300.6300 Exterior Wood Decks, Patios, and Balconies

The division is now required in Minnesota Statutes 16B.61 section (n) to amend the (building) code in order to permit certain types of wood to be used in the construction of the decking surface and upper portions of exterior wood decks, patios, and balconies. The proponents of the bill, which was signed into law by the governor on April 28, 1995, cited that the definition of "Wood of natural resistance to decay" in section 2302 of the 1994 Uniform Building Code as referenced in 2317.12, was too restrictive as it does not permit such wood to contain more than 5 percent sapwood. Therefore, it is necessary to add proposed rule part 1300.6300 accordingly.

B. Amendments to the Uniform Building Code, Chapter 1305

1. 1305.0305 Section 305.2.3, Special Provisions - E Occupancies

UBC Section 305.2.3 exception 2 is in conflict with Minnesota rule part 1300.5100 subpart 2, therefore, it is necessary to delete exception 2 by amendment. In order to avoid conflict with Minnesota rule part 1300.5100 it is necessary to add the words "for other than school buildings" to exception 2. Also, in order to alert the reader that Minnesota rule part 1300.5100 addresses this same subject, it is necessary to add this

reference in exception 4.

2. 1305.0308 Section 308, Group I Occupancies

Subpart 2, section 308.2.2.2. It is necessary to add this amendment to insure that there is some minimum level of protection against smoke in I-3 occupancies. Without this provision, I-3 occupancies would be exempt from smoke barrier opening protection as stated in 905.2.4 exception 2. This amendment is reasonable because it provides identical protection in I-3 occupancies as regulated in Appendix Chapter 317 exception 2.

3. 1305.0310 Section 310.9.1 Smoke Detectors

UBC Section 310.9.1.2 exception. As written, the code requires that smoke detectors be installed in all required locations when certain valued repairs are made to the exterior of dwellings. This creates an enforcement dilemma for building inspectors because they otherwise would not be entering the dwelling to inspect for exterior improvements or repairs. The division believes that the addition of smoke detectors should not be required if the work performed does not require entry into the home. Therefore, it is both needed and reasonable that the amendment be added so that compliance with the smoke detector requirements is required only when work performed necessitates entry into the home for purposes of inspecting such work.

4. 1305.0904 Section 904.2.4, Group E Occupancies

Subpart 1. Section 904.2.4.1. During the reformatting and the adding of new code changes to the 1994 UBC, conflict of code sections has arisen. It appears that the language as written in UBC 904.2.4.1 conflicts with the substitution of 1 hour construction with a sprinkler system as allowed in UBC 508. The two other sections of the UBC that allow increases in areas of increases in stories with the addition of a sprinkler system were not affected by new code section 904.2.4.1. It also appears that new section 904.2.4.1 is more restrictive on application to existing buildings as the leasing of educational space in a five story office building would require sprinkling the entire building or dividing it into 10,000 square foot compartments. The proposed change is, therefore, necessary and reasonable to bring the sprinkler requirements in line with "I" occupancy requirements based on sprinkling of the occupancy and not the building. Also, changes to exception #2 would require a minimum separation of two hours between "E" occupancies and other occupancies and require the "E" occupancy to be subdivided into compartments of 20,000 square feet or

less if not sprinklered.

5. 1305.1202 Section 1202, Ventilation

Subpart 1. Section 1202.2.1. The first sentence in this proposed rule part exists in UBC section 1202.2.1. However, because the Minnesota Energy Code in Minnesota rule part 7670.0450 requires buildings to be ventilated in accordance with ASHRAE Standard 62-1989, it is necessary that the last two sentences be added to correlate the reference. This is reasonable because the ventilation standards referenced in both the building code and energy code will now be the same.

6. 1305.1704 Section 1704, Prefabricated Construction

The words "or 1361 as applicable" are being added because a new Minnesota rule chapter 1361 is being incorporated simultaneously in rulemaking. This reference is reasonable because both chapters regulate aspects of prefabricated construction.

C. Electrical Code

1. 1315.0200 Scope

Subpart 1. Electrical code. It is both necessary and reasonable to adopt the 1996 edition of the National Electrical Code in order to remain in keeping with the legislative intent of Minnesota Statute 16B.61 subdivision 1 to,

... conform insofar as practicable to model building codes generally accepted and in use throughout the United States.

The National Electrical Code is a model code that is widely used throughout much of the United States. In addition, the 1996 edition incorporates revisions to the 1993 edition that are needed to address changes in technology, materials, and methods of construction.

D. Solar Energy Systems

1. Chapter 1325

All rule parts except part 1325.1100 are being repealed in order to

incorporate by reference new standards that more accurately and completely addresses the quality and performance of solar energy systems. This is reasonable because Minnesota Statutes section 216C.25 states,

The commissioner of administration in consultation with the energy commissioner shall amend the rules as new technology and materials become available, or as standards are revised by the federal government.

The standards being incorporated by reference do represent the latest technology in measuring quality and performance of solar energy systems. In addition, the federal government's Department of Housing and Urban Development, have incorporated most of the same standards by reference into their rules.

2. 1325.1100 Solar Energy Rules

Subpart 1. Authority. It is necessary and reasonable to change the statutory references to make them accurate and current.

Subpart 2. Scope. It is necessary and reasonable to reference the statutory definition of solar energy systems in order specifically define the systems regulated by this part.

Subpart 3. Purpose. The means of disclosure is being changed to reflect the procedure identified in the Solar Rating and Certification Corporation's (SRCC) Operating Guidelines and Standards being incorporated by reference.

Subpart 4. Incorporation of Operating Guidelines and Standards. See D.1 for discussion.

Subpart 5. Certification. It is necessary to replace the current description of solar energy disclosure with that contained in the operating guidelines and standards being adopted by reference. This is reasonable because the proposed subpart satisfies the provisions of Minnesota Statute section 216C.25 that requires a method of ensuring that,

... solar energy systems as defined in 216C.06 subdivision 8, which are sold or installed within this state, are effective and represent a high standard of quality of material, workmanship, design, and performance.

Also,

Manufacturers or retailers of solar energy systems shall disclose to each bona fide potential purchaser of a system the extent to which the system meets or exceeds each quality standard.

Subpart 6. Enforcement. Some modifications were made to this subpart in order to reflect the terminology used in the operating guidelines and standards being incorporated by reference.

V. Small Business Considerations

Minnesota Statute 14.115, subdivision 2 (1994) requires the department, when proposing rules which may affect small businesses, to consider the following methods for reducing the impact on small businesses:

- (a) the establishment of less stringent compliance or reporting requirements for small businesses;
- (b) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- (c) the consolidation or simplification of compliance or reporting requirements for small businesses;
- (d) the establishment of performance standards for small businesses to replace design or operational standards required in the rule; and
- (e) the exemption of small businesses from any or all requirements of the rule.

The division has evaluated the effect of the proposed rules on small businesses and has considered each of the methods listed above for reducing the impact of the rules on small businesses.

Since these rules contain no scheduling, deadline, or reporting requirements, items (a), (b), and (c) are not applicable.

These rules are performance based for all uses, not just for small businesses as identified in item (d).

item (e) is not applicable as Minnesota Statute 16B.59 requires the commissioner

of administration to administer a state code of building construction which will provide basic and uniform performance standards for all residents of the state.

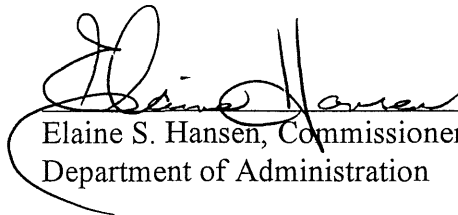
VI. Fiscal Impact

Minnesota Statutes, section 14.11, subdivision 1, does not apply because adoption of these rules will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption of the rules.

VII. Conclusion

Based on the foregoing, the proposed amendments to Minnesota Rule 1300, 1305, 1310, 1315, and 1325 are both needed and reasonable.

Date: 12-6-95


Elaine S. Hansen, Commissioner
Department of Administration